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EXAMINER
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ART UNIT	PAPER NUMBER
3622	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No.	Applicant(s)
	09/495,759	Nakis
	Examiner	Art Unit
	John Young	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___3___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Jul 9, 2002* _____.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-14* _____ is/are pending in the application.

   4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-14* _____ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some* c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

   a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

4) ☐ Interview Summary (PTO-413) Paper No(s). _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____

FINAL REJECTION

DRAWINGS

1.   This application has been filed with drawings that are considered informal; however, said

drawings are acceptable for examination and publication purposes. The review process for

drawings that are included with applications on filing has been modified in view of the new

requirement to publish applications at eighteen months after the filing date of applications, or any

priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS —35 U.S.C. §103(a)

2.   **Rejections Maintained.**

ORIGINAL 35 U.S.C. §103(a) REJECTIONS

The text of those sections of Title 35, U.S. Code not included in this action can be

found in a prior Office action.

3.   Independent claims 1 & 7 and dependent claims 2-3, 5-6, 8-9 & 11-12 are rejected under

35 U.S.C. §103(a) as being unpatentable over Kramer 6,327,574 (12/04/2001) [US f/d:

02/01/1999] (herein referred to as "Kramer").

As per claim 1, Kramer (the ABSTRACT; FIG. 3B; FIG. 5A; FIG. 5B; FIG. 6;

FIG. 7; FIG. 8; FIG. 10; FIG. 17; FIG. 18; col. 1, ll. 15-18; col. 1, ll. 23-40; col. 2, ll. 46-

65; col. 5, ll. 5-25 col. 13, ll. 20-67; and col. 14, ll. 1-67) shows elements that suggest:

"A method of advertising over a communications network comprising a plurality of

interactive customer subscriber sites interconnected with an advertising information server

site . . . providing, at the interface advertising information server site, interactive

advertising displays incorporating the one or more role models; establishing an interactive

communication link from the customer subscriber sites t the advertising information server

site enabling customers to access the displays and to make purchases in response to the

displays. . . ."

Kramer lacks an explicit recitation of "A method of advertising over a

communications network comprising a plurality of interactive customer subscriber sites

interconnected with an advertising information server site . . .providing, at the interface

advertising information server site, interactive advertising displays incorporating the one

or more role models; establishing an interactive communication link from the customer

subscriber sites t the advertising information server site enabling customers to access the

displays and to make purchases in response to the displays. . . ." even though Kramer

(the ABSTRACT; FIG. 3B; FIG. 5A; FIG. 5B; FIG. 6; FIG. 7; FIG. 8; FIG. 10; FIG. 17;

FIG. 18; col. 1, ll. 15-18; col. 1, ll. 23-40; col. 2, ll. 46-65; col. 5, ll. 5-25 col. 13, ll. 20-

67; and col. 14, ll. 1-67) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the

invention that the disclosure of Kramer (the ABSTRACT; FIG. 3B; FIG. 5A; FIG. 5B;

FIG. 6; FIG. 7; FIG. 8; FIG. 10; FIG. 17; FIG. 18; col. 1, ll. 15-18; col. 1, ll. 23-40; col.

2, ll. 46-65; col. 5, ll. 5-25 col. 13, ll. 20-67; and col. 14, ll. 1-67) would have been selected in accordance with "A method of advertising over a communications network comprising a plurality of interactive customer subscriber sites interconnected with an advertising information server site . . . providing, at the interface advertising information server site, interactive advertising displays incorporating the one or more role models; establishing an interactive communication link from the customer subscriber sites t the advertising information server site enabling customers to access the displays and to make purchases in response to the displays. . . ." " because such selection would have provided a means that *"overcomes the limitations of conventional models and targeting methods for delivering custom content to consumers that matches their interests, preferences, demographics, or psychographics."* (See <u>Kramer</u> (col. 2, ll. 45-55)).

<u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) shows elements that suggest "storing the attributes of a plurality of customers in the form of customer attribute vectors c_k . . . storing the attributes of one or more role models in the form of one or more role model attribute vectors i_j . . .defining a marketing function m which maps the customer attribute vectors to the one or more role model attribute vectors such that $i_j = M(c_k)$ . . . updating the marketing function M in dependence upon the customer purchases."

<u>Kramer</u> lacks an explicit recitation of "storing the attributes of a plurality of customers in the form of customer attribute vectors c_k . . . storing the attributes of one or more role models in the form of one or more role model attribute vectors i_j . . .defining a

marketing function m which maps the customer attribute vectors to the one or more role model attribute vectors such that $i_j = M(c_k)$ . . . updating the marketing function M in dependence upon the customer purchases. . . ." even though <u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) suggests same.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of <u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) would have been selected in accordance with "storing the attributes of a plurality of customers in the form of customer attribute vectors c_k . . . storing the attributes of one or more role models in the form of one or more role model attribute vectors i_j . . .defining a marketing function m which maps the customer attribute vectors to the one or more role mode l attribute vectors such that $i_j = M(c_k)$ . . . updating the marketing function M in dependence upon the customer purchases. . . ." because such selection would have provided a means that *"overcomes the limitations of conventional models and targeting methods for delivering custom content to consumers that matches their interests, preferences, demographics, or psychographics. . . ."* (See <u>Kramer</u> (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built using mathematical functions that map from the specific transactions of the consumer to estimates of the relevancy of certain attributes to the consumer. These models can be used to order a number of pieces of conditional content with respect to how well they match the attributes of the consumer. . . ."* (See <u>Kramer</u> (col. 2, ll. 60-67).

As per claim 2, <u>Kramer</u> shows the method of claim 1.

<u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) shows elements that suggest the elements and limitations of claim 2.

<u>Kramer</u> lacks an explicit recitation of the elements and limitations of claim 2, even though <u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) suggests the elements and limitations of claim 2.

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of <u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) would have been selected in accordance with "the role model constitutes one of a plurality of such role models, the step of defining a marketing function M which maps the customer attribute vectors c_k to the role model attribute vectors i_j includes defining a plurality of marketing functions M which map customer attribute vectors c_k to a plurality of role model attributes vectors i_j , and the step of updating the marketing function M n dependence upon the customer purchases includes the step of learning the mapping from the vectors c_k to the vectors i_j to maximize sales. . . ." because such selection would have provided a means that *"overcomes the limitations of conventional models and targeting methods for delivering custom content to consumers that matches their interests, preferences, demographics, or psychographics. . . ."* (See <u>Kramer</u> (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built using mathematical functions that map from the specific transactions of the consumer to estimates of the relevancy of certain attributes to the*

consumer. These models can be used to order a number of pieces of conditional content

with respect to how well they match the attributes of the consumer, and hence how well

they may appeal to the consumer's interests. . . ." (See Kramer (col. 2, ll. 60-67).

As per claim 3, Kramer shows the method of claim 2.

Kramer (FIG. 8; FIG. 9; FIG. 10) discloses *"BOOLEAN MATCHING";* the

Examiner interprets this disclosure as being equivalent to a genetic algorithm to evolve the

mapping function.

Kramer lacks an explicit recital of the elements and limitations of claim 3.

It would have been obvious to a person of ordinary skill in the art at the time of the

invention that the disclosure of Kramer (FIG. 8; FIG. 9; FIG. 10) would have been

selected in accordance with "wherein the step of learning the mapping from the vectors c_k

to the vectors i_j comprises using a genetic algorithm to evolve the mapping function. . . ."

because such selection would have provided a means that *"overcomes the limitations of*

conventional models and targeting methods for delivering custom content to consumers

that matches their interests, preferences, demographics, or psychographics. . . ."

(See Kramer (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built*

using mathematical functions that map from the specific transactions of the consumer to

estimates of the relevancy of certain attributes to the consumer. These models can be

used to order a number of pieces of conditional content with respect to how well they

match the attributes of the consumer, and hence how well they may appeal to the

consumer's interests. . . . " (See <u>Kramer</u> (col. 2, ll. 60-67) and because Boolean

algorithms can be considered a generic algorithmic format.

As per claim 5, <u>Kramer</u> shows the method of claim 2.

<u>Kramer</u> (col. 26, ll. 20-67) discloses *"Bayesian . . . mapping. . . . with . . .*

conditional probabilities. . . . "

<u>Kramer</u> lacks an explicit recital of the elements and limitations of claim 5.

It would have been obvious to a person of ordinary skill in the art at the time of the

invention that the disclosure of <u>Kramer</u> (col. 26, ll. 20-67) would have been selected in

accordance with "wherein the step of learning the mapping from the vectors c_k to the

vectors i_j comprises treating parameters of the marketing function as probability

distributions and using Bayesian inference to find the posterior distribution of the

marketing function parameters. . . ." because such selection would have provided a means

that *"overcomes the limitations of conventional models and targeting methods for*

delivering custom content to consumers that matches their interests, preferences,

demographics, or psychographics. . . . " (See <u>Kramer</u> (col. 2, ll. 45-55)) *In particular, a*

detailed model of the consumer is built using mathematical functions that map from the

specific transactions of the consumer to estimates of the relevancy of certain attributes to

the consumer. These models can be used to order a number of pieces of conditional

content with respect to how well they match the attributes of the consumer, and hence

how well they may appeal to the consumer's interests. . . . " (See <u>Kramer</u> (col. 2, ll. 60-

67).

As per claim 6, <u>Kramer</u> shows the method of claim 2.

<u>Kramer</u> (FIG. 12b; and col. 28, ll. 40-67) discloses *"statistical regression on*

existing data. . . . "; the Examiner interprets this disclosure as suggesting "using non-linear

regression to map c_k. . . ."

<u>Kramer</u> lacks an explicit recital of the elements and limitations of claim 6.

It would have been obvious to a person of ordinary skill in the art at the time of the

invention that the disclosure of <u>Kramer</u> (FIG. 12b; and col. 28, ll. 40-67) would have been

selected in accordance with "wherein the step of learning the mapping from the vectors c_k

to the vectors i_j comprises using "using non-linear regression to map c_k to i_j . . . ." because

such selection would have provided a means that *"overcomes the limitations of*

conventional models and targeting methods for delivering custom content to consumers

that matches their interests, preferences, demographics, or psychographics. . . ."

(See <u>Kramer</u> (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built*

using mathematical functions that map from the specific transactions of the consumer to

estimates of the relevancy of certain attributes to the consumer. These models can be

used to order a number of pieces of conditional content with respect to how well they

match the attributes of the consumer, and hence how well they may appeal to the

consumer's interests. . . . " (See <u>Kramer</u> (col. 2, ll. 60-67).

Claim 8 is rejected for substantially the same reasons as claim 2.

Claim 9 is rejected for substantially the same reasons as claim 3.

Claim 11 is rejected for substantially the same reasons as claim 5.

Claim 12 is rejected for substantially the same reasons as claim 6.

4.   Dependent claims 4 & 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Kramer and further in view of Boe 6,236,975 (05/22/2001) [US f/d: 09/29/1998] (herein referred

to as "Boe").

As per claim 4, Kramer shows the method of claim 2.

Kramer (FIG. 8; FIG. 9; FIG. 10; FIG. 12b; col. 26, ll. 20-67; and col. 28, ll. 40-

67) shows elements that suggest "learning the mapping from the vectors c_k to the vectors

i_j. . . ."

Kramer lacks explicit recital of: "learning the mapping from the vectors c_k to the

vectors i_j comprises using a three-layer neural network to find the mapping function b

back propagation."

Boe (col. 4, ll. 5-25; col. 6, ll. 58-67; col. 7, ll. 1-10; and page 2) discloses:

"*mapping. . . . attributes*" and "'Neural networks, Who we are and what we do, Genetic

Algorithms, Systems, Fuzzy Logic, Artificial life, Agenda, Book reviews,' 11 pgs,

195.240.38.150/hccai/eng_al.htm, Aug.7, 1997."

Boe proposes neural network and genetic algorithm modifications that would have

applied to the method of Kramer. It would have been obvious to a person of ordinary skill

in the art at the time of the invention to combine the teachings of Boe with the method of

Kramer because such combination would have allowed "a business . . . [to] obtain

information from customers that allows the business to target its marketing efforts to

specific products and services to specific customers who are more likely than the general

population to purchase those products and services." (See Boe (col. 1, ll. 58-65)).

Claim 10 is rejected for substantially the same reasons as claim 4.

NEW 35 U.S.C. §103(a) REJECTIONS

**The text of those sections of Title 35, U.S. Code not included in this action
can be found in a prior Office action.**

5.   Independent claims 13 & 14 are rejected under 35 U.S.C. §103(a) as being unpatentable

over Kramer in view of Clanton, III et al. 5,524,195 (06/04/1996) (herein referred to as

"Clanton").

As per claim 13, Kramer shows the method of claim 1.

Kramer lacks an explicit recital of "wherein the role models incorporated into the

interactive advertising displays are anthropomorphic in appearance. . . ." as recited in

claim 13.

Clanton (the ABSTRACT; FIG. 8; FIG. 9; FIG. 10; FIG. 13; FIG. 4; col. 2, ll. 22-

33; col. 3, ll. 1-47; col. 4, ll. 4-6; col. 4, ll. 65-67; col. 5, ll. 1-13; col. 8, ll. 19-36; col. 9, ll.

53-67; col. 10, ll. 1-7; col. 11, ll. 53-67; and col. 12, ll. 1-18) shows elements that suggest

"wherein the role models incorporated into the interactive advertising displays are

anthropomorphic in appearance."

Clanton proposes "anthropomorphic . . . interactive advertising display. . . ."

modifications that would have applied to the system and method of Kramer. It would

have been obvious to a person of ordinary skill in the art at the time of the invention to

combine the disclosure of Clanton with the teachings of Kramer because such

combination would have provided a means that *"overcomes the limitations of*

conventional models and targeting methods for delivering custom content to consumers

that matches their interests, preferences, demographics, or psychographics. . . ."

(See Kramer (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built*

using mathematical functions that map from the specific transactions of the consumer to

estimates of the relevancy of certain attributes to the consumer. These models can be

used to order a number of pieces of conditional content with respect to how well they

match the attributes of the consumer, and hence how well they may appeal to the

consumer's interests. . . . " (See Kramer (col. 2, ll. 60-67) and because such combination

would have provided means for *"[facilitating] human interaction with computer*

systems. . . . [by utilizing] metaphors in the design of the interface as a way to maximize

human familiarity, and convey information between the user and the computer." (See

Clanton (col. 2, ll. 8-14)).

As per claim 14, Kramer shows the method of claim 7.

Kramer lacks an explicit recital of "wherein the role models incorporated into the

interactive advertising displays are anthropomorphic in appearance. . . ." as recited in

claim 14.

Clanton (the ABSTRACT; FIG. 8; FIG. 9; FIG. 10; FIG. 13; FIG. 4; col. 2, ll. 22-

33; col. 3, ll. 1-47; col. 4, ll. 4-6; col. 4, ll. 65-67; col. 5, ll. 1-13; col. 8, ll. 19-36; col. 9, ll.

53-67; col. 10, ll. 1-7; col. 11, ll. 53-67; and col. 12, ll. 1-18) shows elements that suggest

"wherein the role models incorporated into the interactive advertising displays are

anthropomorphic in appearance."

Clanton proposes "anthropomorphic . . . interactive advertising display. . . ."

modifications that would have applied to the system and method of Kramer. It would

have been obvious to a person of ordinary skill in the art at the time of the invention to

combine the disclosure of Clanton with the teachings of Kramer because such

combination would have provided a means that *"overcomes the limitations of*

conventional models and targeting methods for delivering custom content to consumers

that matches their interests, preferences, demographics, or psychographics. . . ."

(See Kramer (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built*

using mathematical functions that map from the specific transactions of the consumer to estimates of the relevancy of certain attributes to the consumer. These models can be used to order a number of pieces of conditional content with respect to how well they match the attributes of the consumer, and hence how well they may appeal to the consumer's interests. . . . " (See <u>Kramer</u> (col. 2, ll. 60-67) and because such combination would have provided means for *"[facilitating] human interaction with computer systems. . . . [by utilizing] metaphors in the design of the interface as a way to maximize human familiarity, and convey information between the user and the computer. "* (See <u>Clanton</u> (col. 2, ll. 8-14)).

RESPONSE TO ARGUMENTS

6.   Applicant's response (Amendment A, paper#7, filed 07/09/2002) concerning the obviousness rejections in the prior Office Action have been fully considered but are not persuasive for the following reasons:

        Applicant's response (Amendment A, paper#7, p. 2, ll. 4-5; p. 7, ll. 13-17; and p. 8, ll. 14-15) asserts that "Claims 1 - 3, 5 - 9, 11, and 12 were rejected as obvious based on Kramer and Walker." Please note that the reference to <u>Walker</u> in the prior Office Action is a typographical error. The prior Office Action obviousness rejections of claims 1 - 3, 5 - 9, 11, and 12 are based solely on <u>Kramer</u>.

Applicant's response (Amendment A, paper#7, p. 2, ll. 6-21) asserts that

"Applicant cannot locate . . . anthropomorphic figures which represent human role models

in Kramer. . . ."

In response to applicant's argument that the references fail to show certain features

of applicant's invention, it is noted that the features upon which applicant relies (i.e.,

"anthropomorphic figures which represent human role models") are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's response (Amendment A, paper#7, pp. 3- 8) asserts that the

"Rejection is Defective . . . [specifically] pages 3 and 4. . . . [and does] not comply with

section 103. . . . [and] fails to set forth a proper Deere Analysis, which is outlined in

MPEP § 706.02(j). . . ."   This is not the case.

It is well established that:

35 U.S.C. 103 authorizes a rejection where, to meet the

claim, it is necessary to modify a single reference or to combine it

with one or more other references. After indicating that the

rejection is under 35 U.S.C. 103, the examiner should set forth in

the Office action:

(A) the relevant teachings of the prior art relied upon,

preferably with reference to the relevant column or page number(s)

and line number(s) where appropriate,

(B) the difference or differences in the claim over the

applied reference(s),

(C) the proposed modification of the applied reference(s)

necessary to arrive at the claimed subject matter, and

(D) an explanation why one of ordinary skill in the art at

the time the invention was made would have been motivated to

make the proposed modification.

To establish a *prima facie* case of obviousness, three basic

criteria must be met. First, there must be some suggestion or

motivation, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to modify the

reference or to combine reference teachings. Second, there must be

a reasonable expectation of success. Finally, the prior art reference

(or references when combined) must teach or suggest all the claim

limitations. The teaching or suggestion to make the claimed

combination and the reasonable expectation of success must both

be found in the prior art and not based on applicant's

disclosure. . . . (See MPEP 706.02(j)).

In the prior Office Action, the obviousness rejection of claim 1 relied upon

modification of a single reference;

The prior Office Action obviousness rejection of claim 1 sets forth the relevant

teachings of the <u>Kramer</u> prior art reference relied upon to include column and page

numbers and line numbers where appropriate; for example, the prior Office Action

obviousness rejection of claim 1 recites in part:

As per claim 1, <u>Kramer</u> (the ABSTRACT; FIG. 3B; FIG.

5A; FIG. 5B; FIG. 6; FIG. 7; FIG. 8; FIG. 10; FIG. 17; FIG. 18;

col. 1, ll. 15-18; col. 1, ll. 23-40; col. 2, ll. 46-65; col. 5, ll. 5-25

col. 13, ll. 20-67; and col. 14, ll. 1-67) shows elements that suggest:

"A method of advertising over a communications network

comprising a plurality of interactive customer subscriber sites

interconnected with an advertising information server site . . .

providing, at the interface advertising information server site,

interactive advertising displays incorporating the one or more role

models; establishing an interactive communication link from the

customer subscriber sites t the advertising information server site

enabling customers to access the displays and to make purchases in

response to the displays. . . ."

The prior Office Action obviousness rejection of claim 1 sets forth the differences

in the claim over the applied reference by stating that:

Kramer lacks an explicit recitation of "A method of

advertising over a communications network comprising a plurality

of interactive customer subscriber sites interconnected with an

advertising information server site . . .providing, at the interface

advertising information server site, interactive advertising displays

incorporating the one or more role models; establishing an

interactive communication link from the customer subscriber sites t

the advertising information server site enabling customers to access

the displays and to make purchases in response to the displays. . . ."

even though Kramer (the ABSTRACT; FIG. 3B; FIG. 5A; FIG.

5B; FIG. 6; FIG. 7; FIG. 8; FIG. 10; FIG. 17; FIG. 18; col. 1, ll.

15-18; col. 1, ll. 23-40; col. 2, ll. 46-65; col. 5, ll. 5-25 col. 13, ll.

20-67; and col. 14, ll. 1-67) suggests same.

The prior Office Action obviousness rejection of claim 1 sets forth the proposed

modification of the applied reference necessary to arrive at the claimed subject matter, by

presenting the motivation to modify the reference by reciting the provision of:

means that *"overcomes the limitations of conventional models and*

targeting methods for delivering custom content to consumers that

matches their interests, preferences, demographics, or

psychographics." (See <u>Kramer</u> (col. 2, ll. 45-55)). . . . [and]

means that *"overcomes the limitations of conventional models and*

targeting methods for delivering custom content to consumers that

matches their interests, preferences, demographics, or

psychographics. . . ." (See <u>Kramer</u> (col. 2, ll. 45-55)) *In*

particular, a detailed model of the consumer is built using

mathematical functions that map from the specific transactions of

the consumer to estimates of the relevancy of certain attributes to

the consumer. These models can be used to order a number of

pieces of conditional content with respect to how well they match

the attributes of the consumer. . . ." (See <u>Kramer</u> (col. 2, ll. 60-

67).

The prior Office Action obviousness rejection of claim 1 sets forth the explanation

why one of ordinary skill in the art at the time the invention was made would have been

motivated to make the proposed modification by reciting:

It would have been obvious to a person of ordinary skill in

the art at the time of the invention that the disclosure of <u>Kramer</u>

(the ABSTRACT; FIG. 3B; FIG. 5A; FIG. 5B; FIG. 6; FIG. 7;

FIG. 8; FIG. 10; FIG. 17; FIG. 18; col. 1, ll. 15-18; col. 1, ll. 23-40;

col. 2, ll. 46-65; col. 5, ll. 5-25 col. 13, ll. 20-67; and col. 14, ll. 1-

67) would have been selected in accordance with "A method of

advertising over a communications network comprising a plurality

of interactive customer subscriber sites interconnected with an

advertising information server site . . . providing, at the interface

advertising information server site, interactive advertising displays

incorporating the one or more role models; establishing an

interactive communication link from the customer subscriber sites t

the advertising information server site enabling customers to access

the displays and to make purchases in response to the displays. . . ."

" because such selection would have provided a means that

"overcomes the limitations of conventional models and targeting

methods for delivering custom content to consumers that matches

their interests, preferences, demographics, or psychographics.''

(See <u>Kramer</u> (col. 2, ll. 45-55)). . . . [and]

It would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of <u>Kramer</u> (the ABSTRACT; col. 2, ll. 55-67; col. 3, ll. 22-50; col. 22, ll. 15-40; and col. 35-65) would have been selected in accordance with "storing the attributes of a plurality of customers in the form of customer attribute vectors c_k. . . storing the attributes of one or more role models in the form of one or more role model attribute vectors i_j . . .defining a marketing function m which maps the customer attribute vectors to the one or more role model attribute vectors such that $i_j = M(c_k)$ . . . updating the marketing function M in dependence upon the customer purchases. . . .'' because such selection would have provided a means that *"overcomes the limitations of conventional models and targeting methods for delivering custom content to consumers that matches their interests, preferences, demographics, or psychographics. . . .''* (See <u>Kramer</u> (col. 2, ll. 45-55)) *In particular, a detailed model of the consumer is built using mathematical functions that map from the specific transactions of*

the consumer to estimates of the relevancy of certain attributes to

the consumer. These models can be used to order a number of

pieces of conditional content with respect to how well they match

the attributes of the consumer. . . ." (See <u>Kramer</u> (col. 2, ll. 60-

67).

Furthermore, to establish *prima facie* obviousness, the prior Office Action relies

upon some suggestion and motivation found in the reference, as well as the knowledge

generally available to one of ordinary skill in the art to modify the reference;

Also, to establish *prima facie* obviousness, the prior Office Action relies upon the

reasonable expectation of success as established in the allowed patent to <u>Kramer</u>;

Also, to establish *prima facie* obviousness, the prior Office Action relies upon the

suggestion of all of the claim limitations as suggested in the <u>Kramer</u> reference as modified;

and

Finally, to establish *prima facie* obviousness, the prior Office Action relies upon

the suggestion to make the claimed combination/modification and the reasonable

expectation of success as found in the prior art and not based on applicant's disclosure.

Therefore, all of the elements of the <u>John Deere</u> analysis are met.

Prima facie obviousness is established in the prior Office Action.

Applicant's response (Amendment A, paper#7, pp. 5-6) asserts that the prior

"Office Action has not actually shown claim 1 in the applied [reference]."   This is not the

case.

As explained above in the Deere analysis, in the Kramer reference along with the

knowledge of a person of ordinary skill in the art are found the suggestions of all of the

elements of claim 1; furthermore, Applicant's response (Amendment A, paper#7, pp. 5-

6) amounts to a general allegation that the claims define a patentable invention without

specifically pointing out how the language of the claims patentably distinguishes them

from the applied prior art reference to <u>Kramer</u>.

Applicant's response (Amendment A, paper#7, pp. 6-7) alleges that "the PTO is

asserting that Kramer inherently shows the elements of claim 1."   This is not the case.

No where in the prior Office Action 35 USC §103(a) Obviousness rejections has

the use of inherency been presented as evidence that the instant invention is inherently

obvious or inherently anticipated in the prior art.   Only implicitly suggested evidence

has been presented to show obviousness.   Therefore, Applicant's argument with regard to

inherency is moot.

Applicant's response (Amendment A, paper#7, pp. 7-8) alleges that the prior Office Action obviousness rejection contains meaningless and admittedly false statements. This is not the case. Furthermore, no where in the prior Office Action do the obviousness rejections admit to making false statements; therefore, Applicant's response (Amendment A, paper#7, pp. 7-8) amounts to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the applied prior art reference to Kramer. Furthermore, with regard to Applicant's accusation that the PTO allegedly admitted to making false statements, and pursuant to 37 CFR 1.3, the Applicant is reminded that "Applicants and their attorneys or agents are required to conduct their business with the Patent and Trademark Office with decorum and courtesy. . . ."

Applicant's response (Amendment A, paper#7, pp. 8-11) alleges that claims 4 and 10 are not obvious over the cited prior art of record and that *prima facie* obviousness has not been established concerning the obviousness rejections of claims 4 and 10 because "all the claim limitations must be taught or suggested by the prior art."

In this case, to establish *prima facie* obviousness, of claims 4 and 10, the prior Office Action relies upon some suggestion and motivation found in the references, as well as the knowledge generally available to one of ordinary skill in the art to modify the reference; therefore, *prima facie* obviousness has been established.

Applicant's response (Amendment A, paper#7, pp. 12-13) alleges that the prior

Office Action provides "No Teaching . . . for Combining References. . . ."   This is not the

case.

It is well settled that the test requires that "there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to

one of ordinary skill in the art, to modify the reference or to combine reference teachings."

(See MPEP 707.02(j)).

In each instance of combining references to establish obviousness, the prior Office

Action presents some suggestion or motivation found in the references as well as relying

on the knowledge generally available to one of ordinary skill in the art to combine the

reference teaching; for example, the prior Office Action rejection of claim 4 recites in part:

Boe (col. 4, ll. 5-25; col. 6, ll. 58-67; col. 7, ll. 1-10; and

page 2) discloses: *"mapping. . . . attributes"* and "'Neural

networks, Who we are and what we do, Genetic Algorithms,

Systems, Fuzzy Logic, Artificial life, Agenda, Book reviews,' 11

pgs, 195.240.38.150/hccai/eng_al.htm, Aug.7, 1997."

Boe proposes neural network and genetic algorithm

modifications that would have applied to the method of Kramer. It

would have been obvious to a person of ordinary skill in the art at

the time of the invention to combine the teachings of Boe with the

method of <u>Kramer</u> because such combination would have allowed

"a business . . . [to] obtain information from customers that allows

the business to target its marketing efforts to specific products and

services to specific customers who are more likely than the general

population to purchase those products and services." (See <u>Boe</u>

(col. 1, ll. 58-65)).

Applicant's response (Amendment A, paper#7, pp. 13-14) alleges that the

"Office Action Fails to Comply wit Dembiczak."   This is not the case.

It is well established in the law that:

Particular . . . factual findings regarding the suggestion,

teaching, or motivation to combine serve a number of important

purposes. . . . The suggestion to combine may be found in explicit

or implicit teachings within the references themselves, from the

ordinary knowledge of those skilled in the art, or from the nature of

the problem to be solved.

(See: <u>WMS Gaming, Inc. V. International Game Tech.</u>, F.3d, 51 U.S.P.Q.2d (BNA)

1385, 1397 (Fed. Cir. 1999); see also <u>In re Dembiczak</u>, 175 F.3d 994, 1000, 50

U.S.P.Q.2d (BNA) 1614, 1617 (Fed. Cir. 1999)).

In this case, the prior Office Action relies upon the factual findings implicitly found in <u>Boe</u> (col. 1, ll. 58-65) for the suggestion to combine as well as factual finding from the ordinary knowledge of those skilled in the art and from the nature of the problem to be solved.

Therefore, the prior Office Action complies with/follows <u>Dembiczak</u>.

THIS ACTION MADE FINAL

Applicant's amendment necessitated the new arguments of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

CONCLUSION

7.   Any response to this action should be mailed to:

> Box AF
>
> Commissioner of Patents and Trademarks
>
> Washington, D.C. 20231

> Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

> Hand delivered responses may be brought to:

> Seventh Floor Receptionist
> Crystal Park V
> 2451 Crystal Drive
> Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to John L. Young who may be reached via telephone at (703)

305-3801. The Examiner can normally be reached Monday through Friday between 8:30

A.M. and 5:00 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's

supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the Group receptionist whose telephone number is (703)

305-3900.

John L. Young

Patent Examiner

January 9, 2003

ERIC W. STAMBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600